United Nations CMW/C/DZA/2

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
6 January 2016
English
Original: French
English, French and Spanish only

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

Consideration of reports submitted by States parties under article 73 of the Convention

Second periodic reports of States parties due in 2012

Algeria*

[Date received: 7 December 2015]

* The present document is being issued without formal editing.

GE.16-00130 (E) 290416 030516

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Introduction

1. Algeria ratified the Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families on 21 April 2005. It submitted its initial report at the twelfth session in April 2010.

2. When presenting its initial report, the delegation of Algeria highlighted the progress made since ratification of the Convention in strengthening democracy and building the rule of law, in particular, through the reform of State institutions and consolidation of democratic freedoms (justice system reforms).

3. Algeria has managed to conclude the reforms needed to ensure respect for human rights and fundamental freedoms in spite of constraints linked to the legacy of terrorism. In February 2011, the authorities decided to lift the state of emergency, paving the way for a far-reaching programme of institutional, political and socioeconomic reforms fuelled by a genuine desire to broaden democratic space. These reforms are a dynamic response to the expectations of Algerian citizens that reflects the diversity of public opinion.

4. Four new organic laws covering the electoral system, political parties, information and women's representation in elected assemblies have been adopted as part of the reform process and have already entered into effect, as have new laws on associations, incompatibility of mandates, the *Wilayas* (provinces) Code and the Communal Code.

5. This report is divided into three sections.

- The first addresses the Committee's recommendations;
- The second, providing general information, describes the State party's current political structure and the framework for the promotion and protection of human rights;
- The third provides information on the substantive provisions of the Convention that have prompted changes on the part of the State party since the submission of the initial report.

I. Part 1: Responses to recommendations

Response to recommendation contained in paragraph 11 (recommendation No. 1)

6. The Government is reviewing the Labour Code in consultation with all stakeholders. The aim of this process is to adapt the legal framework governing labour relations, including the framework applicable to foreign workers, and to incorporate international labour standards such as those established in the International Labour Organization (ILO) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

Response to recommendation contained in paragraph 13 (recommendation No. 2)

7. Responding to the fresh influx of migrants Algeria has received in recent years, the Government has taken the steps necessary to improve the collection of data and statistics on migratory flows, including flows of foreign workers in an irregular situation. Once collated and processed, these data are used to develop appropriate measures. Exploitation of the data

also enables the authorities to track the most important trends in labour migration, including the impact of migrants on labour market numbers, their skills and their movement patterns.

8. This report includes statistical data on foreign workers in both regular and irregular situations.

Situation of foreign workers in the economic sector

1. Trends in foreign labour

9. Movements in foreign labour are linked to the execution of the various projects undertaken as part of the national development programmes launched by the Government of Algeria. The development of basic infrastructures (water and civil engineering) and housing (homes and educational, health-care and university infrastructures) is a particular focus of these projects.

10. The number of work permits issued to waged migrant workers registered with the social security system in Algeria had risen from 1,107 in 2001 to 62,976 by the end of 2014.

11. The increasing influx of foreign workers seen over this fourteen-year period has taken the average number of valid work permits in issue each year to 33,596. The expansion of the foreign workforce is attributable to the implementation of development programmes such as the 2001-2004 economic growth plan and the five-year plans for 2005-2009 and 2010-2014 that encouraged the recruitment of skilled foreign labour to work in various sectors.

12. This recourse to foreign labour is a response to the need to complete road and rail transport infrastructure construction projects (construction of the east-west motorway between 2005 and 2009) and housing development projects (construction of 2.5 million homes between 2005 and 2015), among others, within the contractual deadlines set for the projects in question and in accordance with the standards and regulations applicable for key socioeconomic infrastructures.

13. There are currently 77,266 foreign migrants working in Algeria. Of this total, 68,794 are in wage employment and the rest are self-employed. These totals break down as follows:

- 62,976 foreign workers in regular wage employment in the economic sector;
- 4,803 foreign workers in irregular wage employment in the economic sector;
- 62,976 foreign workers in regular wage employment in the public sector;
- 8,472 foreign nationals in regular self-employment.

14. Migrants in active employment account for 0.75 per cent of the working population in Algeria (estimated at 10,239,000 persons in 2014 based on the survey carried out by the National Statistics Office). Foreign workers in wage employment account for 0.95 per cent of the total working population in wage employment (7,263,000).

2. Work permits in issue in 2014

15. A total of 62,976 foreign workers, spread across 48 *wilayas* (provinces), were in active employment in Algeria as of 31 December 2014. This figure was 38.35 per cent higher than at the end of 2013, when the total number of foreign workers was 45,519. The size of the foreign workforce is a reflection of the number of projects of national scale under way, particularly in the housing, civil engineering and oil and gas sectors.

3. Structure of the foreign workforce

By sector of activity

16. A review of available data reveals that most of the foreign workers who received work permits in 2014 were employed in the construction, civil engineering and water sector. This sector accounted for 82.12 per cent of the total foreign workforce.

17. In industry, foreign workers accounted for 13.32 per cent of the workforce and were employed mainly in energy and mining, specifically either at the Arzew liquefied natural gas and ammonia complex or other power plants in Oran or at the oil refinery in Skikda.

Work permits issued by sector of activity

Sector of activity	*Construction, Civil Eng., Water*	*Industry*	*Services*	*Agriculture*	*Total*
No. work permits	51 717	8 387	2 835	37	62 976
% of total	82.12%	13.32%	4.50%	0.06%	100%

Work permits issued by nationality of employee

Rank	*Nationality*	*No. work permits*	*% of total*
1	Chinese	40 382	64.12%
2	Turkish	3 908	06.21%
3	Egyptian	3 121	04.96%
4	Indian	2 169	03.44%
5	Italian	1 031	01.64%
6	French	994	01.59%
7	Korean	959	01.52%
8	Other nationalities	9 031	14.36%
Total		**62 976**	**100%**

By skills level

18. Foreign workers classified as unskilled workers accounted for 49.73 per cent of the total foreign workforce in Algeria.

Work permits issued by skills level of foreign workers in wage employment

	Skills level	*% of total*
Managerial	13 598	21.59%
Skilled	18 063	28.68%
Unskilled	31 315	49.73%
Total	**62 976**	**100%**

No.	Wilaya	Number of work permits issued	% of total	No.	Wilaya	Number of work permits issued	% of total
1	Alger	16 483	26.17%	11	Tizi Ouzu	1 354	2.15%
2	Oran	9 969	15.83%	12	Setif	1 218	1.93%
3	Constantine	5 050	8.025%	13	Ain Defla	1 135	1.80%
4	Skikda	3 195	5,07%	14	Saida	1 032	1.64%
5	Blida	3 021	4.80%	15	Bejaia	1 025	1.63%
6	Annaba	2 742	4.33%	16	Tamanrasset	927	1.47%
7	Ouargla	2 616	4.15%	17	Mostaghanem	889	1.41%
8	Tipaza	2 300	3.65%	18	Mascara	799	1.27%
9	Relizane	1 488	2.36%	19	Sidi bel abbes	642	1.02%
10	Medea	1 444	2.29%	20	Other *wilayas*	5 665	9%
	Total: 62 976						

19. The breakdown by skills level reflects the situation in the national labour market, where there is a shortage of certain skills in some sectors of economic activity.

20. It is in the construction and civil engineering sector that job vacancies are most frequently left unfilled. This situation is generally attributed to the fact that an insufficient number of job seekers have the skills necessary to perform the work typical of this sector (bricklaying, iron working, concrete working, etc.).

21. The industrial sector is affected by a skills shortage because of the technologies used and the fact that the positions available require workers who are specialized in the field.

4. Foreign workers in an irregular situation

22. As part of its inspection duties, the Labour Inspectorate is required to check that the provisions of Act No. 81-10 of 11 July 1981, on the conditions of employment of foreign workers, are being applied and to identify any irregularities in foreign workers' situation, including, in particular, whether or not they hold a work permit (whether a full work permit or temporary work authorization).

23. In 2014, 4,803 foreign workers were found not to have a work permit as a result of such checks. These irregularities led to 4,882 disciplinary proceedings being instigated, as follows:

- 4,803 proceedings against the foreign workers concerned;
- 79 proceedings against the employing organizations.

24. Most foreign workers in an irregular situation are Chinese (46.16 per cent), Turkish (11.14 per cent) or Egyptian (2.02 per cent).

5. Situation of foreign workers in public service

25. At the end of December 2014, a total of 1,015 foreign nationals were working in public-sector institutions and administrative bodies. This total included 860 foreign nationals working within the Ministry of Health, 693 of whom were Cuban nationals employed under an intergovernmental agreement.

26. There were also 81 Chinese health-care practitioners working in the Directorate General of the Civil Service under a cooperation agreement and 86 foreign doctors employed on ordinary contracts.

27. The various bodies operating under the umbrella of the Ministry of Higher Education and Scientific Research between them employed 94 foreign nationals, including 28 Palestinians and 25 Iraqis.

28. There were also 44 foreign teachers working in the education sector, 36 of whom were Palestinian nationals.

6. Situation of self-employed foreign nationals

29. According to the records of the National Social Security Fund for Self-Employed Workers (CASNOS), 8,472 foreign nationals were in self-employment at the end of December 2014. Of this total, 2,666 were tradesmen, 373 were artisans, 41 were agricultural workers and 227 were independent professionals.

Self-employed foreign workers affiliated to CASNOS by legal status and sex in 2014

Legal status	*Women*	*Men*	*Total*
Agricultural workers	6	35	41
Artisans	55	318	373
Tradesmen	260	2 406	2 666
Young people's initiative	-	6	6
Artisans cooperative	-	2	2
Agricultural cooperative	1	27	28
Individual agricultural holding	4	35	39
Independent professionals	44	183	227
Private limited company	385	4 318	4 703
Public limited company	-	5	5
Commercial partnership	5	76	81
Public-private partnership	-	1	1
Joint stock company	13	159	172
Civil society organization	-	1	1
Not stated	10	117	127
Total	**783**	**7 689**	**8 472**

Self-employed foreign workers affiliated to CASNOS by sector of activity and sex

Sector of activity	*Women*	*Men*	*Total*
Agricultural workers	12	99	111
Artisans	69	432	501
Tradesmen	1	14	15
Independent professionals	227	2 245	2 472
Companies	41	204	245
Other	433	4 695	5 128
Total	**783**	**7 689**	**8 472**

Response to recommendation contained in paragraph 15 (recommendation No. 3)

30. Public officials who work or have contact with migrant workers receive special training to equip them to deal with the specific needs of such workers.

31. Human rights training courses are organized for social workers working with migrants, particularly social assistance workers and those working in outreach and counselling centres or in social and humanitarian organizations, in order to improve the quality of care and support available to the migrant worker community. The National Institute of Labour is investing in capacity-building activities targeting labour inspectors in particular.

32. Labour inspectors have an important role in protecting migrant workers' rights and ensuring compliance with legal and regulatory provisions related to health and safety in the workplace and the prevention of abusive practices at work. By providing advice and information and exercising oversight functions, they help to ensure effective implementation of labour legislation.

33. Information and advice is provided to migrant workers on a daily basis, whether in person, by telephone, in response to written inquiries and following inspection visits.

34. By way of example, in 2013 the Labour Inspectorate provided advice and information on current labour laws and regulations to 147 foreign workers.

35. The basis for these activities is set forth in article 2 (2) of Act No. 90-03 of 6 February 1990, which establishes that the Labour Inspectorate is responsible for "providing employers and employees with information and advice about their rights and obligations and the most appropriate way to apply legal, regulatory and treaty provisions and arbitration decisions".

36. The labour authorities provide migrant workers and employers wishing to recruit foreign workers with appropriate information about the temporary residence of foreign nationals, the procedure for obtaining work permits, the termination of contracts of employment, the skills sought, conditions of employment, remuneration, social security, cash transfers and the social security withholdings applied to wages.

Response to recommendation contained in paragraph 17 (recommendation No. 4)

37. There is no discrimination against migrant workers in Algeria, whether their situation is regular or irregular. Migrant workers have the right, on the same basis as nationals, to file complaints with the competent judicial and administrative authorities and to be assisted by a person of their choosing, including in disputes with their employer, in order to ensure that they are able to assert their rights in accordance with in-force legal procedures.

38. Grievances may be raised by filing a complaint with the criminal investigation police at a police station or gendarmerie, with an official of the Public Prosecution Service or, by suing for damages in criminal proceedings, with an investigating judge.

39. Whichever of the three mechanisms is used, after a preliminary investigation or judicial inquiry, a decision is handed down by the court concerned, which must address both the criminal charges brought by the prosecution against the offender and the civil action for damages brought by the victim.

40. Migrant workers and members of their families may appeal against any expulsion order issued against them in summary judicial proceedings even if they are undocumented or in an irregular situation.

41. With regard to labour disputes, in 2013 a total of 231 individual complaints concerning 227 foreign workers were filed. Complaints received by the Labour Inspectorate are processed by mediation bureaus in accordance with the provisions of Act No. 90-07 of 6 February 1990.

42. Labour disputes are handled using a specific procedure established under Act No. 90-07 of 6 February 1990, which provides for an initial attempt at mediation, firstly through the internal mediction services of the company concerned, whose role is to help prevent labour disputes, and secondly through the external mediation bureaus, before the dispute can be referred to the social affairs court.

43. Disputes handled by the mediation bureaus in 2013 resulted in the following decisions being issued to the workers concerned:

- 21 conciliation decisions;
- 203 non-conciliation decisions.

44. The issuance of a non-conciliation decision authorizes the foreign workers concerned to pursue their case before the relevant court if they so wish. The main grievances raised through these individual petitions relate to dismissal, compensation for termination of employment and failure to pay wages.

Response to recommendation contained in paragraph 21 (recommendation No. 5)

45. The Constitution guarantees protection for all migrant workers and members of their families lawfully present in Algeria. It also stipulates that violations of the rights and freedoms and attacks on the physical or psychological well-being of human beings are punishable by law.

46. Migrants and members of their families who are in an irregular situation and do not have a place to stay are accommodated in reception centres and assisted by multidisciplinary teams of medical, social work, educational and psychological specialists who ensure that they receive due care and that their fundamental rights are respected by helping them to access the administrative support available through the social services. Children with disabilities may be enrolled in special schools once their filiation has been established by the service concerned and the social services have been informed.

Migrants who commit a criminal offence

47. The protection of the law is extended to migrants accused of committing offences under criminal law (whether the offence is minor or serious). Migrants in such circumstances have the right to a fair trial in accordance with constitutional and legal guarantees and in line with ratified international conventions.

48. This protection applies from the period of police custody through to the period of detention. The law establishes mechanisms to prevent abuse and guarantee the humane treatment of migrants accused of committing offences throughout this period, including, inter alia, their right to contact the diplomatic and/or consular representatives of their country of origin and their right to a medical examination on leaving police custody.

Migrants who are victims of a criminal offence

49. Migrants are protected by law against violations of their physical or psychological well-being, on the same basis as nationals, without exception or reservation and without discrimination on grounds of sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status. Migrants who are victims of crime may institute criminal indemnification proceedings and claim compensation for the injury they have suffered.

Migrants involved in proceedings other than criminal proceedings

50. Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971, on legal assistance, extends the right to legal assistance (i.e. the assistance of a lawyer and defrayal of legal costs) to "all foreign nationals lawfully present in the national territory who have insufficient resources to assert their legal rights". It also provides that: "Legal assistance shall be granted for all cases brought before the ordinary and administrative courts and for all non-adversarial and protective proceedings." This legal assistance may be granted on an exceptional basis to persons who do not satisfy the required criteria should their situations appear to merit special attention due to the subject of the dispute brought before the ordinary or administrative court or if the aim of the proceedings is to obtain a non-adversarial or protective order.

Response to recommendation contained in paragraph 23 (recommendation No. 6)

51. Articles 800, 801, 902 and 919 of the Code of Civil and Administrative Procedure establish the right to appeal against any decision taken by an administrative authority before the administrative courts.

52. The Code also sets out all available avenues of redress against administrative decisions and the related procedures.

53. Should they lose their job, migrant workers in a regular situation enjoy the same rights and protection as workers who are Algerian nationals in cases of early termination or severance of a contract of employment.

54. In application of the law and collective labour agreements, migrant workers in a regular situation who are made redundant have the same rights and entitlements as national workers in terms of the required notice period, statutory and agreement-based severance allowances and any other allowances to which they might be entitled in the event of wrongful termination of their contract of employment.

55. Pursuant to article 31 of Act No. 08-11 of 25 June 2008, migrant workers who are the subject of an expulsion order have certain avenues of redress available to them. This article gives migrants a five-day window during which to appeal to an interim relief judge and provides for the suspension of the expulsion proceedings while the appeal in in progress.

56. Migrant workers who do not initiate appeal proceedings but remain in the country and are subsequently rearrested are immediately returned in application of article 30 of the aforementioned 2008 Act.

57. Migrant workers in an irregular situation may also be deported by order of the wali with jurisdiction in their area (Act No. 08-11, art. 36). Workers may appeal to the Council of State for annulment of the expulsion decision (Code of Civil and Administrative

Procedure, art. 901) or may apply to the interim relief judge to have the decision's execution suspended.

58. Social and humanitarian assistance organizations may be designated to advise, support and assist migrant workers and members of their families facing expulsion.

59. Migrant workers who are subject to an expulsion order or are due to be deported may contact their diplomatic or consular representative and, where appropriate, may benefit from the assistance of a lawyer in any disputes with their employer, particularly, disputes concerning the settlement of wage claims and other entitlements.

Response to recommendation contained in paragraph 25 (recommendation No. 7)

60. The Government of Algeria responded immediately upon receiving the draft observations and recommendations and provided the clarifications requested by the Committee on this subject.

61. The final text of the concluding observations and recommendations adopted by the Committee did not take account of certain items of information provided by the Government of Algeria at the time.

62. An official communication was sent to the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to provide the necessary clarifications. In this letter, the Government rejected paragraphs 24, 25, 34 and 35 of the document bearing the symbol CMW/C/DZA/CO/1 as inappropriate and inadmissible.

Response to recommendation contained in paragraph 27 (recommendation No. 8)

63. New rules introduced into the Code of Criminal Procedure, specifically those relating to preliminary inquiries conducted by the criminal investigation police, provide mechanisms for ensuring the humane treatment of persons taken into police custody and monitoring the use of this measure (such as medical examinations of arrestees by decision of the Public Prosecutor or at the request of a member of their family or their legal counsel, and oversight of the conditions of police custody). A medical examination is mandatory at the end of the period of police custody (Code of Criminal Procedure, arts. 51 bis 1 (2) and 52 (6)).

64. Persons who are lawfully imprisoned by virtue of a court order or decision handed down by a judge are entitled to receive visits pursuant to articles 71 and 75 of the Code on prison organization and the social reintegration of detainees.

65. In the Algerian prison system, all persons deprived of their liberty are treated in accordance with the same rules, without distinction. Thus, "the treatment of detainees shall be such as to preserve their human dignity and ensure the steady improvement of their intellectual and psychological state without distinction as to race, sex, language, religion or opinion".

66. This general principle, which applies to all detainees, whether at the pretrial stage, that is, prior to judgement, or convicted and sentenced to imprisonment, is enshrined in article 2 of Act No. 05-04 of 6 February 2005 establishing the Code on prison organization and the social reintegration of detainees.

67. The cost of detaining persons deprived of their liberty is borne by the Public Treasury. These costs cover, inter alia, expenses related to detainees' food and health care. The rules applied to detainees (whether pretrial, charged or convicted) are the same for nationals and non-nationals.

68. The rules on police custody established in the Code of Criminal Procedure (art. 16 (6)) are exactly the same whether the detainee is a national or non-national. The rules establish:

- A 48-hour time limit on police custody, which must be respected;
- The right to contact a family member and/or a consular representative, and the right to receive visits;
- The automatic right to be examined by a doctor of the detainee's choosing at the end of the period of police custody.

69. The Code also establishes rules for the system of police custody that introduce the notion of "human dignity". Thus, article 52 (4) of the Code stipulates that: "Police custody must take place in premises consistent with human dignity and intended for that purpose."

Response to recommendation contained in paragraph 29 (recommendation No. 9)

70. Current labour legislation establishes that all workers, including migrant workers, may freely exercise the right to join trade unions in accordance with the conditions established in national legislation (Act on the exercise of trade union rights, arts. 1, 2 and 3; Labour Relations Act, art. 5). Free and voluntary membership of a trade union of their choice is open to all workers without discrimination.

Response to recommendation contained in paragraph 31 (recommendation No. 10)

71. Current regulations on rented housing do not contain any provisions that might exclude migrant workers from accessing housing in this category.

72. The principle of non-discrimination takes precedence in this area and, whenever required to address a local need of general interest or an exceptional situation, the wali may give priority to migrant workers.

Response to recommendation contained in paragraph 33 (recommendation No. 11)

73. Article 19 of Act No. 08-11 of 28 June 2008 provides that: "Foreign nationals residing in Algeria may benefit from family reunification subject to the conditions defined in the regulations."

Response to recommendation contained in paragraph 35 (recommendation No. 12)

74. See response to recommendation contained in paragraph 25 (recommendation No. 7) above.

Response to recommendation contained in paragraph 37 (recommendation No. 13)

75. A coordination and information exchange mechanism has been established to foster greater cohesion between *wilaya* employment offices, the National Employment Agency and *wilaya* labour inspectorates in the management, supervision and oversight of the use of foreign labour. The goal pursued in adopting this mechanism is to manage the flow of foreign labour more effectively.

76. The mechanism is also intended to improve the harmonization of policies on employment and work-related migration, in that it makes it possible to monitor movements in the employment of migrant workers and the characteristics of these workers.

Response to recommendation contained in paragraph 39 (recommendation No. 14)

77. Trafficking in human beings is punishable under articles 303 bis 4 to 303 bis 15 of the Criminal Code, which were added pursuant to Act No. 09-01 of 25 February 2009.

78. Under Algerian law, trafficking in human beings is considered to mean the "recruitment, transportation, transfer, harbouring or receipt of one or more persons by threat or use of force or other forms of coercion, by abduction, fraud, deception, abuse of authority or of a position of vulnerability, or by giving or receiving payments or privileges in order to obtain the consent of a person having control over another, for purposes of exploitation. Exploitation shall include exploitation of the prostitution of others, other forms of sexual exploitation, exploitation of others in begging, forced labour or service, slavery and practices similar to slavery, servitude and the removal of organs."

79. This definition is general in scope and applicable to all persons, including women and children. However, Act No. 09-01 introduced the notion of vulnerability by reason of age, illness or physical or mental incapacity known or apparent to the perpetrator as an aggravating circumstance for such offences.

80. Article 303 bis 12 of Act No. 09-01 provides that: "The consent of the victim shall be without effect in cases where the perpetrator uses one of the means set out in article 303 bis 4 (1) of this Act". Offences of trafficking in human beings may be further defined as either aggravated or serious offences, as follows:

- A simple offence of trafficking in human beings is punishable by a prison term of between 3 and 10 years and a fine of between 300,000 and 1,000,000 Algerian dinars;
- When the trafficking victim is a person who is vulnerable by reason of age, illness or physical or mental incapacity known or apparent to the perpetrator, the offence is punishable by a prison term of between 5 and 15 years and a fine of between 500,000 and 1, 500,000 Algerian dinars.

81. Trafficking in human beings is punishable by a prison term of between 10 and 20 years and a fine of between 1,000,000 and 2,000,000 Algerian dinars if at least one of the following circumstances applies:

- The perpetrator either is the spouse of the victim, an immediate family member or his or her guardian or has authority over the victim or is a State official whose position has facilitated the commission of the offence;
- The offence was committed by more than one person;

- The offence was committed using firearms or the threat of their use;
- The offence was committed by an organized criminal group or was of a transnational nature.

82. The resources deployed by the law enforcement authorities ensure that victims are able to report incidents of trafficking in human beings that are the subject of preliminary investigations in a systematic manner. The authorities provide toll-free numbers for victims' use in order to allay any fears they may have and encourage civil society to become involved in the fight against this form of criminal activity through national and local associations.

83. Victims also receive assistance from the judicial authorities, who provide legal aid at all stages of the proceedings, from the preliminary investigation until a final judgment on the case is handed down.

84. Pursuant to the Code of Criminal Procedure, the assistance of an interpreter is obligatory at all stages of the proceedings for victims who are foreign nationals or have hearing and/or speech impediments.

85. Algerian legislation imposes no penalties upon victims of trafficking. In fact, quite the opposite applies: victims are protected by law unless it is proven in inquiries that they are in some way implicated in the trafficking themselves, whether as perpetrator, co-perpetrator or accomplice.

86. Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971, introduced a substantive change to article 28 in order to ensure that legal assistance is automatically extended to victims of trafficking in human beings and that they are thus able to assert their rights through the courts.

87. Assistance is available to victims of trafficking at all stages of the proceedings, from the start of the investigations until a judgement is issued.

88. After the judgement is issued, State authorities and non-governmental organizations (NGOs) assume responsibility for the social protection of victims.

89. Women and children are entitled to special protection from the State authorities and civil society organizations working to protect human rights in general and women's rights in particular.

90. Child victims of trafficking aged 18 years old or under, whether nationals or non-nationals, are considered to be children exposed to psychological risk.

91. The State authorities are required to assume responsibility for such children in order to ensure their protection, and must take all necessary steps to find a place for them in a children's centre and return them to their parents or arrange for their repatriation, if the parents are known. When it is established that a child is a foreign national, the Embassy of the child's country of origin is informed and invited to become involved.

92. If a child who is a non-national fails to provide sufficient information because of their young age or refuses to cooperate, the judge will order their placement in a protection centre run by the Ministry of National Solidarity.

Response to recommendation contained in paragraph 41 (recommendation No. 15)

93. Pursuant to Article 175 bis 1 (2) of Act No. 09-01 of 25 February 2009 (not the Act of 25 June 2008 as mentioned in the Committee's concluding observations), any attempt,

by any person, to leave the national territory via a crossing point other than an official border crossing constitutes a criminal offence.

94. The smuggling of migrants (irregular migration) is covered by article 303 bis 30 of the Criminal Code, which includes a definition in line with the definition given in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. Custodial sentences and fines are established for persons who commit offences of this kind and lengthy terms of imprisonment apply when the offence is committed in any one of the aggravating circumstances provided for in article 303 bis 32 of the Criminal Code.

95. Mindful of the need to preserve human dignity and protect the right to life in all circumstances, the Algerian legislature is seeking, through this provision, to deter persons considering this form of illegal migration and prevent them from becoming entangled in the intricacies of another more serious and harmful form of criminal activity, i.e. trafficking in human beings.

96. Furthermore, the Government of Algeria has adopted a holistic approach under which addressing the root causes of irregular migration is prioritized.

97. With regard to employment issues, an action plan to promote employment and combat unemployment was adopted by the Government in 2008. The plan's main focus is to provide support for specific mechanisms that promote highly labour-intensive sectors of activity, greater efficiency in the management of the labour market, the modernization of labour market institutions and training tailored to labour market needs.

98. Two specific mechanisms have been established to promote wage employment on the one hand and encourage entrepreneurship among young people by providing support for the creation of micro-enterprises on the other.

Response to recommendation contained in paragraphs 42 and 43 (recommendation No. 16)

99. An interministerial working group including representatives of all departments involved in migration issues has been tasked with ensuring implementation of the Committee's observations and recommendations.

100. The responses to the Committee's recommendations that are provided in this report are the fruit of the consultations conducted by members of this working group.

101. Social and humanitarian organizations are a fully-fledged social partner, involved in targeting, implementing, monitoring and evaluating all activities carried out for the benefit of migrants and members of their families, including those in an irregular situation.

II. Part 2: General information on constitutional, legislative and regulatory mechanisms for the implementation of human rights

General information

102. Land area: 2,381,000 km^2; population: 39.5 million (2014); official language: Arabic; national languages: Arabic, Tamazight; religion: Islam; currency: Algerian Dinar; gross domestic product: US$ 221 billion (2014): per capita income; US$ 5,452 (2013); gross external debt: US$ 3.9 billion (2012); unemployment rate: 10.6 per cent (2014); economic

growth: 4.1 per cent; average life expectancy (2011): 76.7 years on average, 77.3 years for women and 76 years for men; infant mortality rate (2010): 23.7 per 1,000 live births on average, 25.5 per 1,000 boys and 21.8 per 1,000 girls; maternal mortality rate (2010): 76.9 maternal deaths per 100,000 births; inflation: 8.89 per cent (2012); school enrolment rate: 98 per cent (2010); age structure in per cents (2008 general population and housing census): under 5 years old: 11.6 per cent; under 15 years old; 28.4 per cent; young people aged between 15 and 24 years old: 21.8 per cent; 25 -59 years old: 53.8 per cent; 60 years or over: 7.4 per cent.

103. The Government of Algeria is implementing a national plan to strengthen respect for constitutionally protected human rights. The plan sets out a coordinated policy for action in this field and reaffirms the Government's resolve to consolidate the individual and collective rights and responsibilities of citizens while promoting values of equality, solidarity, sharing and tolerance.

104. In this spirit, the State authorities are pressing ahead with the process of reform; the reform of the justice system is complete and an evaluation of the success of measures adopted in the areas of education, health and social protection is under way. The status of women has improved considerably, especially since 2008, allowing for their more active involvement in public life and society by means of increased representation within institutional structures, while framework legislation on children's affairs has been adopted to address certain lacunae and ensure more effective protection for all children.

105. The human rights policy adopted by the Government of Algeria has resulted in ongoing improvements to the institutional and legislative framework.

Institutional framework

106. The institutional framework for the exercise of human rights in Algeria consists of both constitutional and non-constitutional mechanisms.

Constitutional mechanisms

107. Constitutional mechanisms are assured by the country's political bodies and judicial institutions.

108. The 1989 Constitution, as amended in 1996 and 2008, enshrines the principle of the separation of powers between the executive, legislative and judicial branches. The constitutional system is a presidential one.

109. The legislative branch is built around the Parliament, which, as the State forum for democratic and pluralist expression, monitors the Government's actions and passes laws. Human rights issues are addressed by standing committees established for the purpose by the two chambers.

110. Following the constitutional amendment of 28 November 1996 to create a bicameral parliament, the National People's Assembly became the first chamber of the Parliament. A total of 462 members of parliament, appointed by universal suffrage in legislative elections, represent the different political tendencies in this chamber. The Council of the Nation is the second chamber of the Parliament and has 144 members. Two-thirds of its members are indirectly elected by a college of members of the people's communal and departmental assemblies, and the remaining third (48 members) is appointed by the President of the Republic.

111. An organic law to increase the representation of women in local and national elected assemblies was promulgated in January 2012. The law enshrines this gradual transition by establishing quotas for the proportion of female candidates that range from 20 to 50 per cent. The law also establishes that any electoral list that does not meet the legally

established quota for female representation must be rejected. This proactive policy for the advancement of women helped to raise the proportion of female parliamentarians to 31.6 per cent following the legislative elections of May 2012.

112. Under the Constitution, the President of the Republic and the Prime Minister appointed by the President form the executive branch of the Algerian political system. The President of the Republic, as Head of State, personifies the unity of the nation and is elected by direct, universal and confidential suffrage for a five-year term, with the possibility of re-election. The Prime Minister is responsible for implementing the programme of work formulated by the President and for coordinating the Government's activities. The Government programme is subject to approval by the National People's Assembly.

113. The executive branch has taken various actions to give shape to its human rights policy, including, first and foremost, the ratification of international human rights instruments.

114. The independence of the judiciary is enshrined in Article 138 of the Constitution, which provides that: "The judiciary shall be independent and shall operate within the framework of the law."

115. The Government of Algeria has established judicial mechanisms to guarantee both the rights of citizens and the independence of judicial decision-making. The justice system in Algeria consists of two levels of adjudication - namely, courts of first instance and courts of appeal. The highest judicial authority is the Supreme Court, which is responsible, pursuant to the Constitution, for supervising the activities of the regular courts of law. The Supreme Court is also responsible for unifying jurisprudence throughout the country and ensuring compliance with the law.

116. The justice system also includes the administrative judiciary, composed of the administrative courts and the Council of State, which is the body responsible for regulating the activities of the administrative courts.

117. The dispute court is responsible for settling conflicts of jurisdiction between the Supreme Court and the Council of State.

118. Established pursuant to article 163 of the Constitution, the Constitutional Council is the body responsible for ruling upon the constitutionality of laws. The Council ensures that laws are consistent with the Constitution and, in particular, that constitutional rights and freedoms are respected. It also ensures that the will of the people, as expressed in presidential and parliamentary elections, is taken into account. Issues may be referred to the Council, which has nine members, by the President of the Republic, the President of the Council of the Nation and the President of the National People's Assembly.

Non-constitutional mechanisms

119. Non-constitutional mechanisms are provided by bodies established to promote the exercise of human rights in implementation of infra-constitutional legislation. Such mechanisms involve administrative and non-State agencies.

120. The National Advisory Commission for the Promotion and Protection of Human Rights was established in 2002. It has 44 members, 16 of whom are women. The Commission is an advisory body with monitoring, early warning and evaluation functions and is responsible for investigating situations in which human rights have been violated. It also carries out awareness-raising, information-sharing and public relations activities to promote human rights and provides advice on possible improvements to national legislation. The Commission prepares an annual report on the state of human rights for submission to the President of the Republic.

121. Freedom of opinion and freedom of expression, which are guaranteed by Organic Act No. 90-07 on information, as amended and supplemented, serve as checks and balances and are essential for monitoring and protecting human rights.

122. The Constitution of Algeria accords an important place to freedom of association in the defence of human rights. Freedom of association, which is protected under article 41, includes the protection of specific rights such as the rights of women, children, the sick, persons with disabilities, older persons, consumers and users of public services.

123. Lastly, arrangements for exercising trade union rights are set out in Act No. 90-14 of 2 June 1990. There are 57 organizations protecting sector-specific or professional rights, which between them claim to cover more than 2.5 million employees and 23 employers' associations, including three confederations.

Legal framework and practical measures

124. The legal framework for the exercise of human rights in Algeria is provided by the Constitution, international treaties, organic laws and legislation.

125. Chapter IV of the 1996 Constitution, as amended in 2008, is focused on rights and freedoms.

126. The rights and freedoms set out in this chapter are accorded the status of constitutional principles. The same principles are also established in the international human rights treaties to which Algeria is a party.

127. Under the terms of a Constitutional Council decision dated 20 August 1989, the international commitments of Algeria prevail over domestic law. This decision upholds the constitutional principle according to which duly ratified international treaties prevail over domestic law, which is expressed in the Constitution as follows: "Once they are ratified and published, all treaties become part of national law and, pursuant to article 132 of the Constitution, acquire greater force than laws, thereby allowing all Algerian citizens to invoke their provisions before the courts."

128. Algeria has signed most of the core human rights treaties. It reports regularly to the United Nations treaty bodies created under these international human rights instruments on its progress in meeting its international human rights obligations. It maintains cooperative relations with organizations of the United Nations system, the international humanitarian movement and the NGO community.

129. The annual celebrations of Universal Declaration of Human Rights Day, Women's Day, Children's Day and Disabilities Day provide a fresh opportunity to inform the public, through organized events, about the different international human rights instruments to which Algeria is a party. It also provides an opportunity to gauge the effect of measures taken by the public authorities and to learn lessons about how the treaties can be more effectively implemented.

130. As regards human rights education, primary school curricula and textbooks for several subjects (civics, Islamic education, languages, history and geography) ensure that pupils are introduced to human rights treaties. Human rights are taught on the basis of universal texts (the Universal Declaration and other international treaties) and posters or articles of particular conventions are distributed for use as teaching aids to all schools throughout the country. Human rights modules are likewise an integral part of the curriculum at universities, the Judicial Training School, the Police Training School, the National Prison Administration Training School, and gendarmerie training schools.

131. The texts of the international and regional human rights treaties ratified by Algeria can be consulted on the website of the Ministry of Justice (www.mjustice.dz).

132. A compendium of the principal international legal instruments is available free of charge to judges, who also receive training in civil liberties and human rights in Algeria and abroad.

133. A number of other legal instruments, in addition to the Constitution, encourage the democratization of public life in Algeria today, including, in particular, various organic laws.

134. Specific legislation has been adopted to cover the creation of political parties and their relations with the Administration and encourage transparency in the management of political party finances and disputes or conflicts between the Administrations and approved political parties.

135. Act No. 12-06 of 12 January 2012, on associations, is designed to strengthen freedom of association, regulate the activities of associations in a more precise manner and fill any legal lacunae in existing provisions relating, in particular, to foundations, associations and foreign associations wishing to establish themselves in Algeria. To further consolidate the right of association, the Act requires the Administration to decide on requests for approval within a specific time frame.

136. Organic Act No. 12-04 of 12 January 2012, on political parties, is designed, inter alia, to reinforce democratic pluralism and strengthen the relevant provisions.

137. Organic Act No. 12-05 on information, promulgated on 12 January 2012 and amended and supplemented in 2014, is a response to the new expectations of citizens and society and reflects the diversity of their opinions. Besides consolidating citizens' right to access information, the Act establishes a number of mechanisms designed to safeguard the press and provide protection against interference. The Act takes account of the new landscape in the audiovisual sector and emphasizes the need for training.

138. The promotion and protection of human rights are of great importance. Accordingly, various new pieces of legislation have been adopted to strengthen and clarify the human rights framework. These laws address the situation of women, children, persons with disabilities and other protected groups.

III. Part 3: In-depth information on the implementation of the Convention

A. General principles

1. Articles 1 (1) and 7: Non-discrimination

139. Article 67 of the Constitution states that: "All foreign nationals lawfully present in the national territory shall enjoy the protection of the law with respect to their person and their property."

140. This is a general rule that guarantees protection for foreign nationals lawfully residing in or travelling through the country irrespective of their status (migrant worker, tourist, resident, etc.). Foreign nationals enjoy the protection of Algerien law provided that their entry and stay meet legal and regulatory requirements.

141. Domestic law does not in any way distinguish between foreign workers and Algerian workers.

142. This principle is scrupulously applied in labour matters, provided that the migrant workers concerned have employee status (Act No. 90-11 of 21 April 1990 on labour relations, as amended and supplemented, art. 2) and that they can show evidence of their

recruitment under the terms set out in Act No. 81-10 of 11 July 1981 on the conditions of employment of foreign workers.

143. Foreign workers who are recruited in accordance with the provisions of Act No. 81-10 enjoy the same rights as Algerian workers, as set forth in Act No. 91-11 of 21 April 1990, in particular, articles 17 and 142.

144. Foreign workers enjoy the following fundamental labour rights: the right to join trade unions, the right to collective bargaining, the right to participate in the business, the right to social security and a pension, the right to occupational health and safety, the right to rest, the right to participate in workplace dispute prevention and resolution, and the right to strike.

145. Foreign workers also enjoy the same rights as Algerian workers in areas such as respect for their physical and psychological well-being and their dignity, protection against discrimination in recruitment on grounds other than skills and merit, and the regular payment of wages, social security allowances and other benefits specifically tied to their work contracts.

2. Article 83: Right to an effective remedy

146. Having ratified the International Covenant on Civil and Political Rights and its first Optional Protocol as well as the African Charter on Human and Peoples' Rights, the Government of Algeria extends the possibility of exercising the right to an effective remedy, in accordance with established procedures, to all citizens and all persons under its jurisdiction.

147. Current Algerian legislation provides for remedies whenever a restriction limits the exercise of a right. This rule applies not only to court rulings but also to decisions taken by administrative authorities, whose validity is assessed ultimately by the Council of State (as the highest administrative court).

148. These are legal remedies that the courts and administration must uphold, failing which they are liable to penalties.

149. They are clearly effective remedies for migrant workers and members of their families and are such as to guarantee their rights, thereby excluding arbitrary treatment.

3. Article 84: Duty to implement the Convention

150. In ratifying the Convention, the Government of Algeria undertook to implement its provisions. The measures that were adopted before and after its ratification reflect the State's commitment to giving full effect to the Convention.

151. It should be noted that the principle whereby international legal instruments ratified by Algeria take precedence over domestic law was upheld by the Constitutional Council on 20 August 1989 in Decision No. 1-DL-CC-89 relating to electoral matters, which reads: "Considering that, once they are ratified and published, all treaties become part of national law and, pursuant to article 132 of the Constitution, acquire greater force than laws, thereby allowing all Algerian citizens to invoke their provisions before the courts ..."

B. Part III of the Convention: Human rights of all migrant workers and members of their families

1. Article 8: Right to leave any country, including one's own, and to return

The Constitution

152. Under articles 44 and 67 of the Constitution, foreign nationals residing in the national territory, including migrant workers and members of their families, may exercise the right to enter and leave the national territory and to return to and remain in their State of origin at any time, provided that they comply with the legislation and regulations of the host country, in particular with regard to entry and residence visas.

Code of Criminal Procedure

153. Restrictions on the right to enter and leave the national territory may only be imposed by order of the legally competent authorities or by an investigating or trial judge, in accordance with the conditions laid down by the Code of Criminal Procedure.

154. Foreign nationals, including migrant workers, who satisfy the legal and regulatory requirements are free to leave the host country, unless they are barred from doing so by a decision taken by a legally competent authority or by an investigating or trial judge.

155. It should be noted that the amendment to the Criminal Code contained in Act No. 09-01 of 27 February 2009 introduced community service as an alternative to imprisonment and that this measure restricts freedom of movement because persons opting for such schemes are required to adhere to the schedule set by the sentencing judge.

156. When a convicted person does not fulfil the obligations of community service, the sentencing judge notifies the prosecution service so that the prison sentence originally imposed on the person may be enforced.

157. Under article 42 of the Act on the conditions of entry, stay and movement of foreign nationals in Algeria, foreign nationals who evade the implementation of an expulsion or deportation order or re-enter the country without authorization after being expelled or deported are liable to a prison sentence of 2 to 5 years unless they can demonstrate that they are unable to return to their country of origin or go to a third country, in accordance with international conventions on the status of refugees and stateless persons.

158. The same penalty applies to any foreign national who fails to submit to the competent administrative authority the travel documents needed to enforce any one of the above-mentioned measures or, in the absence of such documents, has not communicated the information needed to enforce the measures. In addition, the court may bar a convicted person from remaining in the country for a period of up to 10 years. Such a prohibition entails ipso jure the convicted person's deportation, where appropriate, upon completion of their sentence.

159. Article 30 of the aforementioned Act of 25 June 2008 stipulates that, in addition to in application of the provisions of article 22 (3), the Minister of the Interior may order a foreign national's expulsion from the country in the following situations:

- When the administrative authorities consider the foreign national's presence in the country to be a threat to public order or State security.
- When the foreign national has been the subject of a judgement or final judicial ruling imposing a prison sentence for a crime or lesser offence.

- When the foreign national does not leave the country before the deadline allotted, in accordance with the provisions of article 22 (1 and 2).

160. While awaiting deportation, foreign nationals in an irregular situation may also be placed in a waiting centre for a renewable period of 30 days, upon the decision of the wali (art. 37).

161. Articles 7 and 42 of the aforementioned Act No. 08-11, on criminal provisions, provide for derogations in respect of individuals who fall within the scope of an international convention on refugees and stateless persons. Thus, asylum seekers and refugees are not subject to the same obligations as other migrants: they are not required to hold the travel documents required of foreign nationals in general and cannot be expelled or removed. The Act also provides remedies for foreign nationals subject to an expulsion order.

Act No. 08-11 of 25 June 2008 on the conditions of entry, stay and movement of foreign nationals in Algeria

162. Article 3 of the above law stipulates that all persons who do not hold Algerian nationality or have no nationality at all are considered foreign nationals. Article 4 states that the entry, stay and movement of foreign nationals in Algeria are subject to completion of the formalities established under the Act and in subsequent laws.

163. In order to gain entry to the country, foreign nationals are required to complete the usual formalities, as detailed in the Act:

- They must show that they are in possession of a ticket, valid visa and, where appropriate, the requisite administrative authorizations;
- They must provide evidence of sufficient resources to cover the duration of their stay in Algeria;
- Subject to the principle of reciprocity, foreign nationals wishing to stay in Algeria temporarily are required to hold travel insurance (Act No. 08-11 of 25 June 2008, art. 4);

164. Article 7 states that: "Subject to international agreements on refugees and stateless persons ratified by Algeria, all foreign nationals arriving in the country shall present themselves to the competent border-control authorities with a passport issued by the State of which they are a national or any other valid document recognized by Algeria as a valid travel document and, where applicable, the requisite visa issued by the competent authorities and a health-care booklet, in line with international health regulations."

Article 17 further states that: "Foreign nationals wishing to live in Algeria with a view to taking wage employment shall receive a resident card only if they hold one of the following documents:

- A work permit;
- A temporary work authorization;
- A certificate of declaration of the employment of foreign workers, for foreign workers who do not require a work permit such as French and Tunisian nationals".

165. Article 9 allows for the possibility of foreign residents in a regular situation to leave the country; article 18 allows for them to extend their stay; and article 19 stipulates that they can benefit from family reunification under the terms set forth in the relevant regulations.

166. However, under article 7, the Minister of the Interior may deny a foreign national entry to the country on grounds of public order, State security or potential threat to the fundamental, diplomatic interests of the State. The wali responsible for the region in question may immediately deny entry to a foreign national on the same grounds.

2. Articles 9 and 10

(a) Right to life

167. The Constitution, as the basic law, enshrines the principle of protection for the physical and psychological well-being of the individual, guarantees the inviolability of the human person and prohibits all forms of physical or psychological violence and affronts to human dignity (art. 35).

168. Title II of the Criminal Code, entitled "Crimes and offences against the person", criminalizes and sets penalties for the offences of wilful homicide (murder), wilful homicide with premeditation and malicious aforethought (assassination), infanticide, poisoning and crimes and offences involving intentional assault and battery. In order to guarantee the protection of victims residing in the national territory, the penalties for these offences apply without exception, reservation or distinction of any kind.

169. As part of efforts to update domestic law in this field, Act No. 09-01 of 25 February 2009, concerning the Criminal Code, incorporated a new section, entitled "Organ trafficking", into the chapter on crimes and offences against the person. This section establishes penalties of between 1 and 15 years' imprisonment and fines of between 300,000 and 1,500,000 Algerian dinars. Aggravating circumstances apply when the victim is a minor or the offence is committed by an organized or transnational criminal group (illegal immigration).

(b) Prohibition of torture and inhuman or degrading treatment

170. Following its ratification in 1989, practical steps were gradually introduced to implement the Convention against Torture, culminating in the reform of the justice system undertaken in 1999 and the incorporation of three new provisions into the Criminal Code by Act No. 04-15 of 10 November 2004. The three articles in question are 263 bis, 263 ter and 263 quater, which prescribe very severe penalties (5 to 10 years' fixed-term rigorous imprisonment plus a fine) for perpetrators of acts of torture. These penalties are increased if the perpetrators are public officials (10 to 20 years' fixed-term rigorous imprisonment and a fine) or if the acts of torture are preceded, accompanied or followed by a serious offence other than murder (10 to 20 years' fixed-term rigorous imprisonment and life imprisonment). In addition, article 341 criminalizes sexual harassment.

171. As a preventive measure, the Code of Criminal Procedure, referring specifically to preliminary investigations, provides mechanisms to ensure the humane treatment of persons held in police custody and to monitor the use of such procedures (through medical examinations of detainees by decision of the Public Prosecutor or at the request of their family or legal counsel, and oversight of the conditions of police custody). A medical examination is mandatory at the end of the period of police custody (Code of Criminal Procedure, arts. 51 bis (2) and 52 (6)).

3. Article 11: Prohibition of slavery and forced labour

172. Exploitative practices are not permitted in Algerian society. Labour law provides mechanisms to protect all workers, including migrant workers, from all forms of ill-treatment and violations of their fundamental rights. If such violations should occur, workers may seek compensation before the competent courts.

173. The Constitution lays down the principle of "ending the exploitation of man by man" and bans "feudal, regionalist and nepotistic practices" (arts. 8 and 9). Algeria has ratified the main international instruments in this domain.

174. Under articles 88, 96 and 97 of the Civil Code, a work contract is considered null and void if it was concluded under coercion or using violence or blackmail of any form, and is without effect if it undermines public order or decency. Individuals who engage in unlawful practices that result in forced labour are liable to criminal prosecution.

175. The contracts of foreign workers are subject to oversight by the Labour Inspectorate, as are those of Algerian workers. Employers who breach labour law are liable to a fine and, in some cases, imprisonment, following criminal proceedings brought before the competent court on the basis of an infraction report drawn up by the Labour Inspectorate.

4. Articles 12, 13 and 26

(a) *Right to freedom of conscience and religion*

176. This right is enshrined in article 36 of the Constitution, which emphasizes its inviolability. Ordinance No. 06-03 of 28 February 2006 on the conditions of practice of faiths other than Islam reinforces the above-mentioned constitutional principle and reflects a real willingness on the part of the public authorities to recognize all revealed religions that are predicated on tolerance and respect.

177. Article 2 of the Ordinance expressly provides that: "The State of Algeria guarantees freedom of religious practice subject to respect for the Constitution, the present Ordinance, in-force laws and regulations, public order and the fundamental freedoms of third parties. The State also guarantees tolerance and respect between the different religions."

178. The above provision applies to Algerians and foreign nationals alike, without distinction between faiths, and is intended to reframe or establish the appropriate context for healthy religious practice and to isolate extremist views and positions that accentuate differences between faiths.

179. Article 298 of the Criminal Code prohibits and establishes prison terms and fines for "any act of defamation committed against one or more members of an ethnic or philosophical group or specific religion that is intended to stir up hatred between citizens or inhabitants". In addition, article 160 establishes prison terms of 5 to 10 years for acts that destroy, damage or desecrate sacred books or places of worship.

180. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

181. Act No. 63-278 of 26 July 1963 on statutory holidays, as amended and supplemented, stipulates that foreign workers of the Christian faith receive paid leave for religious holidays, i.e. Easter Monday, Ascension, 15 August (Assumption) and 25 December (Christmas). Similarly, workers of the Jewish faith receive paid leave for Rosh Hashana (New Year), Yom Kippur (Day of Atonement) and Pesach (Passover).

182. Foreign teachers and students are not deprived of any freedoms, provided that Algerian law is observed. No religious activity is tolerated in the workplace or academic environment. However, in university residences space can be reserved, where available, for cultural and religious practices.

(b) Right to freedom of opinion and expression

183. This right is covered in articles 32, 36 and 38 of the Constitution, which reflect the content of the International Covenant on Civil and Political Rights. The Constitution guarantees the enjoyment of fundamental freedoms, the inviolability of freedom of opinion and the freedom of artistic and scientific creation, including copyright.

184. Article 2 of Organic Act No. 12-05 of 12 January 2012, on information, stipulates that: "Information is an activity freely exercised pursuant to the provisions of this Act and current legislation and regulations."

185. There are no restrictions on the freedom of foreign students and teachers living in Algeria. Any unlawful activity is brought to the attention of the competent authorities, as are overt proselytization activities carried out by foreign students.

186. In Algeria, religious activities can be conducted only in appropriate premises that have been authorized for the holding of gatherings. All other public gatherings are subject to prior authorization by the competent department of the *wilaya* concerned.

187. Under article 295 of the Criminal Code, any person who incites hatred or discrimination against a person or group of persons on the grounds of their race or ethnicity or who organizes, spreads, promotes or engages in propaganda to this end is liable to a prison term of 6 months to 3 years and a fine of 50,000 to 150,000 Algerian dinars.

(c) Right to join a trade union

188. Trade union freedoms are protected under the Constitution. They are also covered in labour legislation, in particular in Act No. 90-14 of 2 June 1990 on the exercise of the right to join a trade union, which states that foreign workers, in the same manner as Algerian workers, may join trade unions to protect and represent the social and professional interests of their group in dealings with management.

189. Act No. 90-11 of 21 April 1990 does not prohibit migrant workers from participating in the life of the business (through the participation committee) on an equal footing with Algerian workers. The participation of workers is mandatory (art. 92) when, within the same employing organization, there are several separate places of work with fewer than 20 workers each but at least 20 employees in total.

190. There has been no known case of any involvement by a foreign worker in trade union activities in Algeria. This does not mean, however, that the rights of employed foreign workers are not protected and that they cannot call on union representatives to help them defend their rights against an employer.

(d) Participation in meetings and activities of any other associations

191. Articles 33 and 43 of the Constitution guarantee the individual or collective defence of one's rights, give prominence to freedom of expression, association and assembly and call on the State to foster the development of associations.

192. Articles 1 and 2 of Act No. 12-06 of 12 January 2012, on associations, define the latter as groups of individuals or legal entities set up under fixed-term or indefinite agreements that pool their knowledge and resources on a voluntary and not-for-profit basis in order to support and encourage activities in professional, social, scientific, religious, education, cultural, sports, environmental, charitable, humanitarian and other fields.

193. Article 59 of the Act defines foreign associations as entities that are headquartered and accredited in a foreign country and have been authorized to set up in Algeria or that are headquartered in Algeria but are entirely or partially managed by foreign nationals who are

in a regular situation under current legislation. The terms of their accreditation are the same as those applicable to Algerian associations.

5. Articles 14 and 15

(a) *Protection of privacy*

194. Articles 39, 40 and 63 of the Constitution expressly protect the principles of the inviolability of a person's privacy and honour, the confidentiality of private correspondence and communications, and the home: "All individual liberties are enjoyed subject to respect for the rights of others recognized by the Constitution, in particular, respect for the right to honour, privacy and the protection of the family, youth and children."

195. Sections 4 and 5 of Title II of the Criminal Code criminalizes and set penalties for violations of individual liberty, the inviolability of the home, honour and consideration for others, as well as violations and infringements of various forms of confidentiality (including professional confidentiality and the confidentiality of correspondence), defamation, insult and malicious accusation (arts. 296, 299 and 300).

196. The inviolability of the home is upheld through strict rules governing house searches, which are authorized only by virtue of and in compliance with the law and subject to a search warrant issued by the competent judicial authority. Any violations committed by law enforcement agents or officials (aggravated penalties) or by individuals (arts. 135 and 295) carry a harsh penalty (arts. 107 and 135 of the Criminal Code).

(b) *Right to property*

197. Article 52 of the Constitution provides that the right to private property is guaranteed, while article 20 stipulates that expropriation must be lawful and must give rise to prior, just and equitable compensation.

198. The law governing expropriation in the public interest lays down rules for this type of expropriation and details the relevant procedures and terms of compensation. Expropriation in the public interest must constitute an exceptional means of acquiring goods or property rights and is admissible only if all other solutions have failed. The declaration of public interest must be issued in accordance with a specific, formal procedure (involving an official declaration that the measure is in the public interest, an evaluation of the goods and property to be expropriated, and an administrative deed of transferability that includes an indication, and provides for the prior deposit of, the amount of compensation due). If a friendly agreement with the administration regarding the offer of compensation cannot be reached, the owner may bring the matter before a court.

6. Articles 16 (1-4), 17 and 24

(a) *Right to liberty and security of persons; safeguards against arbitrary arrest and detention*

199. The rights attributed to migrant workers and members of their families are the same as those granted to Algerian citizens under the Constitution and protected by in-force legislation.

200. The Government of Algeria adheres to the provisions of the Vienna Convention on Consular Relations, which it ratified in 1964.

201. In the absence of any bilateral consular agreement, any communication and contact between foreign nationals and the diplomatic representatives of their State of origin must be channelled through the Ministry of Foreign Affairs.

202. The Criminal Code provides mechanisms for handling any infringements of the liberty and security of persons and property, without distinction. The protection provided under the Criminal Code is extended to foreign nationals, including migrant workers and members of their families.

203. The Code of Criminal Procedure establishes the right to compensation in the event of unjustified pretrial detention leading to a dismissal of proceedings, discharge or final acquittal (arts. 137 bis to 137 bis 14), or in the event of the erroneous conviction of a person whose innocence is subsequently established (arts. 531 bis and 531 bis 1).

204. The Code on prison organization and the social reintegration of detainees stipulates that foreign nationals imprisoned pursuant to a court order or decision handed down by a judge are entitled to receive visits from the consular representative of their State of origin (consular agent).

205. The Criminal Code establishes penalties of 10 to 20 years' imprisonment for any person who abducts, arrests, detains or falsely imprisons another without an order from the established authorities, except in those cases authorized or ordered by law. The same penalty applies to any person who allows premises to be used to detain or falsely imprison the person concerned.

(b) Conditions of detention and imprisonment

206. In the prison system of Algeria (as host or transit country), persons deprived of their liberty are treated in accordance with the same rules whether they are Algerian or foreign nationals, migrant workers or others. The chief goal is to preserve their dignity and safeguard their fundamental rights.

207. The Code on prison organization and the social reintegration of detainees recognizes the right of migrant workers and members of their families who have been detained on any grounds to receive visits from their parents, blood relatives up to the fourth degree, spouse and relatives by marriage up to the third degree, and from other persons such as lawyers, guardians and clerics, and to fulfil their religious obligations.

(c) Right to recognition as a person before the law

208. Article 67 of the Constitution stipulates that: "All foreign nationals lawfully present in the national territory shall enjoy the protection of the law with respect to their person and property." The Civil Code contains provisions concerning the legal capacity and the human rights of the individual from birth to death, in particular the right to register a birth or a death in the civil registries of the host country and the right to a family name, residence and nationality.

7. Articles 16 (5-9), 18 and 19: Right to procedural guarantees

209. The Constitution covers this right in two sections, entitled "Rights and freedoms" (arts. 29-59) and "The judiciary" (arts. 138-158). These sections, which apply to all individuals irrespective of their nationality or origin, status or occupation in the country, address the following:

- Equality before the law without discrimination of any form;
- The presumption of innocence;
- The lawfulness of prosecutions, arrests and detentions;
- The non-retroactive application of the law;
- The right to a defence and respect of the rule of law by judges.

210. These principles are expanded upon in the Criminal Code and the Code of Criminal Procedure and are applied at every stage of the proceedings against persons who have committed a criminal offence.

8. Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfil a contractual obligation

211. The Code of Civil and Administrative Procedure no longer prescribes enforcement by committal in matters of contractual obligations. Accordingly, basing its jurisprudence on article 11 of the International Covenant on Civil and Political Rights, the Supreme Court provided for the abolishment of this practice in an order dated 30 June 2004 (C.S. Ch. Civ. No. 326511).

(a) Revocation of residence cards

212. The general rules on the revocation of residence cards are contained in article 22 of Act No. 08-11 and are applied when it is definitively established that the person concerned no longer meets one of the requirements for issuance of the card or when the person's activities are found, by the relevant authorities, to breach public morals and peace, to violate national interests or to have led to the person's conviction in connection with these activities.

(b) Revocation of work permits or authorizations

213. This measure is taken in application of article 14 of Act No. 81-10 of 11 July 1981 when it is established that the information and documents submitted by the applicant are inaccurate or false.

9. Articles 21 to 23

(a) Protection from confiscation and/or destruction of identity and other documents

214. Under the rules of the Code of Criminal Procedure, the papers or documents held by accused persons may be confiscated, that is, seized by detectives during the preliminary investigation stage or by the investigating judge when the case is subject to a judicial inquiry. This action may be taken either because the paper or document is flawed in some way or as a means to ensure that the accused person has legal representation.

(b) Destruction or attempted destruction of such documents, including travel documents

215. Article 409 of the Criminal Code imposes a penalty of 5 to 10 years' rigorous imprisonment on any person who deliberately burns or destroys, in any manner whatsoever, documents issued by a public authority (such as identity documents, documents authorizing entry to or stay, residence or establishment in the national territory, work permits and travel documents).

(c) Protection against expulsion

216. Chapter VII of Act No. 08-11 of 25 June 2008, entitled "Expulsion and deportation", provides for expulsion in situations such as unlawful entry to the country and the enforcement of a final court decision that includes a prison sentence for a criminal offence, and following deportation decisions.

(d) Appeals

217. The terms of appeal are enumerated in articles 32 to 34 of Act No. 08-11 of 25 June 2008.

(e) Protection against expulsion

218. The collective expulsion of foreign nationals is not addressed under current legislation. Any repatriations are carried out in cooperation with the country of origin and international organizations such as the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration.

219. Individual expulsions are carried out on a case-by-case basis, after consideration of each person's administrative file, regardless of the number of persons held by the authorities.

220. Expulsions are carried out in a manner that safeguards the person's dignity and conforms to the provisions of humanitarian conventions. Persons subject to expulsion always receive assistance with regard to accommodation, food, medical care, transportation and safety.

(f) Right to have recourse to consular or diplomatic protection

221. The new draft law on foreign nationals guarantees protection for the rights of foreign nationals, particularly the rights of certain categories of foreign national (specifically, foreign fathers and mothers of Algerian children residing in Algeria, foreign minors, pregnant women, foreign nationals who have been married for at least two years to an Algerian man or woman, underage foreign orphans, foreign nationals holding a 10-year residence permit, and foreign nationals who can demonstrate that they were habitual residents of Algeria before reaching the age of 18 years old and are living with their resident parents), including protection against expulsion measures or violations of their fundamental rights, in accordance with the Vienna Convention on Consular Relations.

222. The draft law also stipulates that any foreign national who is subject to a deportation order may contact his or her diplomatic or consular representative and receive the assistance of a lawyer and/or interpreter.

10. Articles 25, 27 and 28

(a) Equality of treatment in respect of remuneration and other conditions of work and employment

223. The Constitution, Act No. 81-10 of 11 July 1981 on the recruitment and conditions of employment of foreign workers, and Decree No. 86-276 of 11 November 1986 enshrine the principle of equal treatment and prohibit discrimination between Algerian and foreign workers.

224. The principle of non-discrimination is also covered in article 17 of Act No. 90-11 of 21 April 1990. Fundamental labour rights are guaranteed for foreign workers, who enjoy the following rights: the right to join trade unions, the right to collective bargaining, the right to participate in the business, the right to social security and a pension, the right to occupational health and safety, the right to rest, the right to participate in workplace dispute prevention and resolution, and the right to strike.

225. Foreign nationals working in State agencies and institutions enjoy all rights, including the right to join the social security scheme and to receive certain benefits granted to foreign workers, such as the reimbursement of travel costs. Under the customs duty system, foreign workers are granted temporary, duty-free import of their personal belongings and vehicles, provided that these are re-exported at the end of their posting.

226. Subject to the conditions laid down in the bilateral and multilateral agreements signed by Algeria, migrant workers are affiliated to the social security scheme (Act No. 83-14 of 2 July 1983) irrespective of their nationality, the amount or nature of their

remuneration or the form, nature or validity of their work contract. The social insurance scheme for employees covers illness, incapacity, death, maternity, occupational accidents and diseases, retirement, unemployment and early retirement.

227. In the event of individual or mass dismissal, migrant workers have the same rights and entitlements as Algerian workers by law and under collective labour agreements, in particular with regard to notice periods, statutory and agreement-based severance allowances and the compensation to which they may be entitled in cases of wrongful termination of their contract of employment.

228. Foreign nationals who are employed without a work permit are not deprived of their rights, in application of the principle of equal treatment; the general provisions of labour law remain applicable to them (Act No. 90-04 of 6 February 1990).

229. The right to health, as a fundamental human right, is enshrined in article 24 of the Constitution.

230. The national health system is built on the principle of equitable access, without distinction between individuals and families, to all health-care facilities at which they may receive appropriate emergency, preventive and curative care, thus guaranteeing equal treatment for all workers, including migrants and members of their families, regardless of their residence or work status.

11. Articles 29, 30 and 31

(a) Right of a child of a migrant worker to a name, registration of birth and nationality

231. The State's obligations under the Convention on the Rights of the Child apply equally to Algerian children and the children of foreign families. Domestic legislation also addresses this matter in articles 61 and 64 of Ordinance No. 70-20 of 19 February 1970, on civil status, and articles 1 and 2 of Ordinance No. 70-86 of 15 December 1970, on the Nationality Code.

(b) Access to education on the basis of equality of treatment

232. Article 53 of the Constitution stipulates that: "The right to education is guaranteed. Education is free of charge under conditions laid down by law. Basic education is compulsory. The State is responsible for the organization of the education system and ensuring equal access to education and vocational training."

233. Children of migrant workers who have a disability or are socially deprived (psychologically at risk) may be placed in institutional care or receive other forms of assistance tailored to their situation in specialized centres.

(c) Respect for the cultural identity of migrant workers and members of their families

234. The Ministry of Culture strongly encourages the signature of bilateral agreements to facilitate cultural exchanges with various countries in order to promote respect and appreciation for their cultural identity.

235. The Government of Algeria has acceded to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions and supports the promotion of Algerian culture abroad and of foreign cultures in Algeria.

236. Algeria has hosted many large-scale events, including Algiers' years as Arab Capital of Culture (2007 and 2015), the Pan-African Cultural Festival in Algiers (1969 and 2009) and Tlemcen's year as Capital of Islamic Culture (2011), at which dozens of countries from all continents have showcased their culture and artistic talents.

237. The Ministry of Culture has officially recognized more than 30 international festivals that take place in different regions of the country, making it easier for migrant workers to access cultural activities outside the capital.

238. The national cultural scene sees frequent national and international events, providing the opportunity for migrant workers both to remain in touch with their own culture and to familiarize themselves with the culture of others.

239. The Ministry of Culture encourages cultural organizations operating under its auspices that have spaces for cultural events to make these available to embassies wishing to host activities for their expatriate communities.

240. Infrastructure projects undertaken include the construction of the headquarters buildings of notable international and regional institutions including the Arab-South American Library, the Museum of Africa, the Arab Archaeological Centre and, more recently, the Regional Centre for the Safeguarding of Intangible Cultural Heritage in Africa created in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO). These institutions will each promote cultural diversity in their own specific field and will be open to Algerian and foreign nationals alike.

12. Articles 32 and 33

(a) Right of migrant workers to transfer their earnings, savings and personal belongings to the State of origin

241. The transfer of migrant workers' wages is governed by Central Bank Instruction No. 02 of 2 May 1998, adopted in application of articles 37 and 42 of Regulation No. 95-07 of 23 December 1995 on exchange control. On the basis of this instruction, employers and foreign workers are able to agree contractually the part of the latters' salary to be transferred and the part to be paid in Algerian dinars.

242. The transferable part of their salary can be paid into the foreign worker's account in Algeria or transferred abroad through a bank, financial institution, accredited intermediary or the postal cheque centre where the transfer order is registered.

(b) Right to be informed of the rights arising from the Convention, and dissemination of information

243. Information is provided to migrant workers by the competent authorities. Migrant workers receive assistance from the consular representatives of their country of origin and are also entitled, on par with Algerian workers, to receive assistance from the labour authorities in acquainting themselves with local employment conditions and their rights in terms of labour relations and social security.

13. Article 34: Obligation to comply with the laws and regulations of any State of transit and the State of employment and to respect the cultural identity of the inhabitants of such States.

244. This article is covered by articles 60 and 63 of the Constitution.

C. Part IV of the Convention: Other rights of migrant workers and members of their families who are documented or in a regular situation

1. Article 37: Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity

245. The regulatory framework governing the employment of foreign workers ensures protection for migrant workers against any misleading advertising, in particular by requiring employers to obtain in advance from the labour authorities an agreement in principle for the employment of foreign workers and the provisional work authorizations needed to obtain work visas, and to sign employment contracts and commitments to repatriate the foreign workers at the end of their employment contract.

2. Articles 38 and 39

(a) Right to be temporarily absent without effect upon authorization to stay or work

246. In accordance with the principle of equal treatment, there is no discrimination against migrant workers with regard to statutory rest days, annual leave and absences provided for in labour laws or in the internal regulations of the employing organization.

247. Migrant workers are entitled to annual leave paid by the employer on an equal footing with national workers. Any waiver by migrant workers of their right to annual leave, in whole or in part, is considered null and void. Collective agreements and conventions establish the procedures for granting such leave, which may be increased for workers performing particularly difficult or dangerous jobs that are physically or mentally demanding.

248. In addition to absences for reasons provided for in social security law, provided they give their employer prior notice and justification, migrant workers may also be absent from work without loss of remuneration for the following reasons:

- To carry out trade union or staff representation duties, for the length of time established in legislation or in agreements
- To attend vocational or trade union training courses authorized by the employer and to sit academic or vocational examinations
- For the following family reasons: marriage of the worker, birth of a worker's child, marriage of a worker's child, death of a first-degree relative of the worker or worker's spouse, death of the worker's spouse, or circumcision of a worker's child. In such situations, the worker receives three days' paid leave
- To go on pilgrimage to holy places, once during the worker's employment

249. During prenatal and postnatal periods, female migrant workers are entitled to maternity leave pursuant to the social security laws currently in force. Subject to the employing organization's internal regulations, the employer may also authorize special leave without pay for female migrant workers who have a pressing need to be absent, in the circumstances provided for in the internal regulations.

250. Migrant workers are entitled to one full day off per week. If they work on statutory rest days, they are entitled to a compensatory period of rest of equal duration and to payment at the overtime rate. When necessary for economic or production reasons, their weekly rest day may be postponed or taken on a different day.

251. In accordance with Act No. 63-278 of 26 July 1963 on statutory holidays, as amended and supplemented, the following days are recognized each year as legal, paid

holidays for Algerian and foreign workers of the Christian or Jewish faith who work in the civil administration, public-sector institutions or agencies, public services or concessions, local government or commercial, industrial, artisanal or agricultural entreprises: Easter Monday, Ascension, 15 August (Assumption),25 December (Christmas), Rosh Hashanah (New Year), Yom Kippur (Day of Atonement) and Pesach (Passover).

252. Lastly, article 21 of the above-mentioned Act No. 08-11 provides that: "Foreign nationals holding Algerian residency who leave the country for a continuous period of one year shall lose their status as residents."

(b) Right to liberty of movement and to choose the residence in the territory of the State of employment

253. Articles 24 to 27 of Act No. 08-11 of 25 June 2008 govern the movement and residence of foreigners. Migrant workers have the right to stay, move about and choose their residence freely in Algeria provided they can present documents to prove their status. The paperwork must be completed either in the two weeks before leaving the former place of residence or the two weeks after arriving at the new place of residence. A certificate of registration will be issued to serve as proof that the paperwork has been completed.

254. In order to acquire resident status, migrant workers must obtain a work authorization (work permit, temporary work authorization or certificate of declaration of the employment of foreign workers in the case of foreign nationals who do not require a work permit), as provided in articles 6, 16 and 17 of the above-mentioned Act.

255. Residence permits valid for 10 years may be issued to foreign nationals who have been continuously and lawfully resident in Algeria for 7 years or longer, and to any of their children living with them who are at least 18 years old.

256. Individuals and legal entities who employ a foreign national in any capacity are required within 48 hours to file a declaration to that effect with the local labour authorities or, failing that, with the communal authorities in the place of recruitment, the local police station or the national gendarmerie brigade responsible for the area.

257. Migrant workers who change their current place of residence, either permanently or for a period of more than six months, are required to register their move with the police station, the national gendarmerie brigade or the communal authorities in both the former and the new place of residence in the two weeks before they leave their former address.

258. Foreign nationals residing in Algeria who leave the country for a continuous period of one year lose their status as residents.

3. Articles 40, 41 and 42

(a) Right to form associations and trade unions

259. Trade union rights are exercised within employing organizations in accordance with the law. Employers guarantee the free exercise of trade union rights in strict compliance with in-force legislation.

260. All migrant workers in a regular situation in Algeria are free to join and belong to a legally established trade union of their choice and in this respect enjoy the same rights granted to all workers by law.

261. The legal provisions on eligibility requirements for forming trade unions stipulate that Algerian nationality is compulsory (Act No. 90-14, art. 6). This requirement is based on the principles of national sovereignty and governmental authority.

262. The provisions of the bilateral and multilateral agreements signed by Algeria allow migrant workers and their families to form associations to preserve, promote and protect their economic, cultural and other interests.

(b) Right to participate in public affairs of their State of origin and to vote and be elected at election of that State

263. Article 50 of the Constitution provides that: "All citizens who meet the legal requirements are eligible to vote and to stand for election", as do paragraphs 3 and 54 of the Elections Act.

(c) Procedure and institutions taking care of the needs of migrant workers and possible enjoyment of political rights in the State of employment

264. In Algeria, the possibility for migrant workers to enjoy political rights in the State of employment is not recognized. As everywhere else in the world, the exercise of political rights is closely linked to nationality. In Algeria, a founder member of a political party must fulfil the twin conditions of, firstly, having Algerian nationality and, secondly, not having any other nationality (Act No. 97-09 of 6 March 1997).

4. Articles 43, 54 and 55

(a) Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated

265. Migrant workers and members of their families in a regular situation have access on an equal footing to vocational training, social welfare support, protection from occupational hazards and advisory services.

266. Algerian legislation on vocational training and education, including Act No. 08-07 of 23 February 2008, does not in any way prohibit migrant workers and members of their families in a regular situation from enrolling in training institutions.

267. Action taken to ensure equality of treatment might include efforts to improve access to social assistance, health-care services, nurseries and kindergartens, grassroots sports facilities and recreational and sporting activities, and initiatives to support the development of popular tourism, to facilitate the creation of consumer cooperatives and housing associations and to promote social housing schemes for employees. Social welfare funds are financed by contributions from the employing organization equivalent to 3 per cent of the gross payroll.

268. Occupational health legislation establishes the right to health at work. The provisions of Act No. 88-07 of 26 January 1988 apply to all workers without discrimination. Employers are responsible for preventing occupational hazards, for protecting workers, including migrant workers, against the risk of occupational accidents and illnesses and any possible damage to their health, and for identifying and monitoring any factors in the workplace that might adversely affect their health.

(b) Protection against dismissal, unemployment benefits and access to alternative employment

269. Algerian law enshrines the principle of equality of treatment between national and foreign workers as to protection against dismissal in the above-mentioned Act No. 90-11.

270. With regard to access to alternative employment, the surrender of a work permit means that a foreign worker must cease all paid activity. If another employer then wishes to hire the worker, the work permit must be renewed in accordance with the conditions set out

in article 12 of Decree No. 82-510 of 25 December 1982 establishing procedures for the issuance of work permits and temporary work authorizations.

271. The aforementioned Act No. 90-11 sets out the terms and conditions under which employees may be made redundant on economic grounds. Employers who satisfy the conditions must use all possible means to minimize the number of redundancies.

272. In the case of dismissals on disciplinary grounds, the conditions governing the worker's eligibility for severance pay are set out in the company's internal regulations.

(c) Equality of treatment in the exercise of a remunerated activity

273. There is no procedural discrimination between national and foreign workers. The principle of equality of treatment is expressly established in article 16 of Act No. 81-10 of 11 July 1981, which states that: "Foreign workers shall receive the salary linked to the post that Algerian workers with equivalent qualifications might expect to receive, plus, in some cases, an increment payable under certain conditions laid down by decree. Salaries are payable in the national territory at the end of each period." Articles 2, 3, 4, 5, 6, 10, 15 and 21 of the law governing the conditions of employment of foreign workers are also important provisions in this area.

5. Articles 44 and 50

(a) Protection of the family and family reunification of migrant workers

274. Article 58 of the Constitution stipulates that: "The family enjoys the protection of the State and society." Article 19 of Act No. 08-11 of 25 June 2008 gives foreign nationals residing in Algeria the possibility of family reunification in accordance with terms and conditions to be defined in the relevant regulations.

275. The families of migrant workers have access to the same forms of protection, assistance, support and care within an organized framework. Children attend school and may receive assistance through national solidarity programmes (meals in school canteens, school transportation, school clothing) and food packages for their parents.

276. Other categories of persons (persons with disabilities, frail and elderly persons) receive humanitarian assistance from the relevant social services authorities and duly accredited social and humanitarian organizations.

(b) Consequences of death or dissolution of marriage

277. Under Algerian law, dissolution of marriage may be a result of the death of one of the spouses or of divorce at the behest of the male spouse, by mutual consent of both spouses or, in certain circumstances, at the request of the female spouse. In all cases, the divorce is pronounced by a judge in order to safeguard the rights of all parties concerned, including husband, wife and children.

278. It is worth noting that, pursuant to article 12 of the Civil Code, the law applicable in matters of marriage and divorce is the domestic law of the male spouse.

279. In the event of the death of a migrant worker or the dissolution of his or her marriage, family members may exceptionally be granted residence in the State of employment, particularly if they are able to demonstrate that they have strong ties with the host country or have sufficient stable and regular income.

280. Family members who do not meet the basic conditions for residency are given sufficient time to leave the country. Article 22 of Act No. 08-11 allows a period of one month to prepare for departure and, in exceptional circumstances, an additional two weeks,

that is, a total of 45 days to settle their personal affairs and leave the country. Humanitarian measures are adopted to assist migrant workers in situations of family conflict and appropriate solutions are found to resolve such situations.

6. Articles 45 and 53

(a) Integration of children of migrant workers in the local school system

281. All of the social rights set out in article 45 (1) of the Convention are recognized in Algeria. The laws governing the schooling of children of migrant workers are the same as those applicable to Algerian children.

282. The Government of Algeria guarantees the right to education for all Algerians and for all children of foreign nationals resident in Algeria. This right is upheld by guaranteeing universal access to basic education for a duration of nine years and equal opportunities as regards schooling conditions and the possibility of continued study after completing basic education. Education is compulsory for all girls and boys aged between 6 and 16 years old and is free of charge at all levels in State schools.

Statistical data on the enrolment of migrant children in Algerian State schools (2014-2015)

Education level	*Syrian students*	*Saharan students*	*Malian students*	*Tunisian students*	*Other nationalities**
Primary	1 099		66	61	361
Middle	373	978	17	31	268
Secondary	231	1 949	18	25	107
Total	**1 703**	**2 927**	**83**	**117**	**754**

283. Migrant children enrolled in State schools are entitled to, and receive, the same treatment as Algerian children.

284. Foreign students on scholarships enjoy the same rights as Algerian students without discrimination (Executive Decree No. 10-137 of 13 May 2010), namely, the right to free education on a scholarship, accommodation in university residences, access to canteens, health care and social security that covers health-care costs.

Students/Academic year	*2010/11*	*2011/12*	*2012/13*	*2013/14*
Foreign students	8 053	7 858	9 444	8 748

285. In the State of employment, members of the families of migrant workers enjoy equality of treatment with nationals of the State in relation to access to vocational guidance and training institutions and services, provided that requirements for participation are met.

286. Family members of migrant workers have access to guidance and assessment services. The Minister responsible for vocational training and education establishes conditions and guidelines for the different training options, based on the wishes of applicants and the capacities of training establishments.

* Nigerian, Palestinian, Portuguese, Egyptian, Chadian, Italian, Russian, Libyan, Moroccan, Jordanian, Chinese, Senegalese, Angolan, Ivorian, Lebanese, Guinean, Congolese, Pakistani, Cameroonian, Turkish, Spanish, Brazilian, Saudi Arabian, Iraqi, German, Sudanese, Polish, Greek, French, Indonesian, Vietnamese, of the Republic of Korea, Ukrainian, Filipino.

(b) Access to and participation in cultural life

287. Family members of migrant workers enjoy equal treatment in access to cultural life.

(c) Right to freely choose a remunerated activity for members of a migrant worker's family

288. Family members of migrant workers in a regular situation may seek employment or freely choose a remunerated activity within the terms of the law.

7. Articles 46, 47 and 48

(a) Right to transfer earnings and savings from the State of employment to the State of origin

289. Migrant workers may transfer part of their salary subject to the terms set out in Central Bank Instruction No. 02 of 2 May 1998, adopted in implementation of articles 37 and 42 of Regulation No. 95-07 of 23 December 1995 on exchange control.

290. Notwithstanding the provisions on double taxation contained in bilateral agreements signed by Algeria, migrant workers' salaries are not subject to any taxes, duties, charges or contributions of any description higher or more onerous than those imposed on nationals in similar circumstances.

291. The employment regulations issued by the Social Development Agency include provisions on a number of issues related to the employment of foreign nationals.

(b) Exemption from import and export duties and taxes in respect of particular belongings

292. Migrant workers are exempted from the payment of import and export duties and taxes on their personal and household effects and on the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment.

293. Algeria has signed a number of double taxation agreements to avoid penalizing foreign enterprises and workers, irrespective of their status. Moreover, Algerian tax law does not distinguish between nationals and foreign workers. The same taxation system applies to both.

8. Articles 51 and 52

(a) Right to seek alternative employment in case of termination of the remunerated activity for migrant workers not authorized to freely choose their remunerated activity

294. Upon expiry of their employment contract at the end of the agreed term, and in the event of early termination of a fixed-term contract or termination of an indefinite contract, migrant workers are treated no less favourably than national workers under the provisions of national legislation and collective labour agreements with regard to the form and length of notice, statutory and agreement-based severance allowances and any other allowances to which they may be entitled in the event of wrongful termination of their employment contract.

295. Once their employment contract has expired, on an exceptional basis and following consultations with their previous employer, foreign workers may be authorized to offer their services to another employer, who will submit a request for a work permit on their behalf under the terms set out in article 15 of Act No. 81-10.

(b) Conditions and restrictions for migrant workers who can freely choose their remunerated activity

296. According to article 2 of Act No. 81-10: "Subject to any provisions to the contrary in a treaty or agreement signed by Algeria with a foreign State, all foreign nationals engaging in remunerated activity in Algeria must hold a work permit or a temporary work authorization issued by the competent authorities."

297. Migrant workers are recruited into the labour market on an exceptional basis, giving due consideration to national employment policy, the need to protect national workers, security and public order concerns, and whether their recruitment is justified by the need for particular skills not available in Algeria. The local labour authorities (*wilaya* employment office) issue work permits to foreign workers in wage employment only if the position cannot be filled by an Algerian worker and the foreign worker holds a qualification at least equivalent to a technical diploma and has the skills and credentials necessary for the position to be filled.

298. However, pursuant to article 3 (2) of Act No. 81-10 of 11 July 1981, the central labour authorities have exclusive competence to grant exceptions for workers who have qualifications of a lower level than a technical diploma, provided established procedures are strictly respected. These principles do not apply when the workers in question are nationals of countries covered by international treaties, conventions or agreements.

299. Foreign workers may be recruited to fill a waged position only with the prior approval of the labour authorities and if they have a work visa or temporary work authorization.

300. Article 4 of the above-mentioned Act No. 81-10 stipulates that: "The work permit or temporary work authorization allows the holder to perform a specific waged activity for a specific period of time within the same employing organization."

301. In addition, article 5 states that: "Work permits and temporary work authorizations may be issued to foreign workers only if the requirements of the position to be filled can in no way be satisfied by an Algerian worker, either through internal promotion or external recruitment, including among expatriate Algerian workers, and if the person recruited meets the regulatory requirements of the health service."

302. Article 6 states that: "An application for a work permit cannot be processed by the competent services of the Ministry of Labour unless it is accompanied by a substantiating report from the employing organization."

303. Lastly, article 10 stipulates that: "The validity of work permits is limited to two years. Permits may be renewed subject to the same conditions as those specified in articles 5 and 6 above."

9. Articles 49 and 56

(a) Authorization of residence and authorization to engage in a remunerated activity

304. Under current legislation governing residency (Act No. 08-11, art. 17), foreign workers should be issued with a residence permit only if they are able to prove that they are in regular, wage employment by producing a work permit, temporary work authorization or, in the case of foreign nationals who do not require a work permit, a certificate of declaration of the employment of a foreign worker.

305. Foreign nationals in wage employment receive a residence permit valid for no longer than their work authorizations (Act No. 08-11, art. 16).

306. Act No. 81-10 sets out the conditions for the issuance of work permits to migrant workers. The Act prohibits employers from recruiting foreign workers who are required to obtain a work permit or temporary work authorization and either do not have such a document or have an expired permit or authorization. It also prohibits employers from employing foreign workers in a capacity other than that specified on their work permit.

307. The same expiration dates are generally set for foreign nationals' work permit and residence permit, based on the provisions of article 16 (4) of Act No. 08-11 of 25 June 2008, which states that: "Foreign nationals in wage employment shall receive a residence permit with a validity period that shall not exceed that of the document authorizing them to work." In this connection, article 10 of Act No. 81-10 of 11 July 1981 provides that work permits may be issued for a period of no longer than two years, although they may be renewed.

308. Article 22 of the Act states that, in cases where it has been definitively established that a foreign worker no longer meets one of the requirements for a residence permit, the permit may be revoked.

309. With regard to the change of status resulting from a change of remunerated activity, article 20 of Act No. 08-11 states that: "Foreign nationals wishing to engage in a commercial, industrial, artisanal or professional activity must meet the conditions set out in the laws and regulations governing the exercise of the activity."

(b) General prohibition and conditions of expulsion

310. The replies can be found in the section on article 22.

D. Part V of the Convention: Provisions applicable to particular categories of migrant workers and members of their families

311. Algerian law does not make provision for particular categories of migrant workers. With regard to the provisions of article 62, once their employment status has been regularized, specified-employment workers (see the national law on the promotion and protection of persons with disabilities), enjoy the same rights as are set out in national legislation and in the Convention, particularly in relation to housing (for-profit public housing).

E. Part VI of the Convention: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

1. Article 65: Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families

312. Act No. 81-10 of 11 July 1981 on the conditions of employment of foreign workers introduced several new provisions designed to facilitate the entry and residence of foreign workers in Algeria by means of the following measures:

- Issuance of residence permits valid for two years to foreign nationals wishing to establish permanent residency in Algeria, with the possibility of aligning expiration dates with the duration of training programmes or employment contracts by issuing permits valid for less than two years;
- Introduction of a new residence permit valid for 10 years for foreign nationals able to prove that they have lawfully resided in Algeria for a continuous period of 7 years or longer, to facilitate the situation of long-term residents;

- Extension from six months to one year of the length of time foreign residents may spend outside the country without losing their residents' status;
- Abolition of exit visas for foreign residents;
- Authorization for foreign nationals to engage in a commercial, industrial, artisanal or professional activity provided they meet the terms set out in the laws and regulations governing the exercise of these activities.

313. The Government of Algeria is considering establishing a national coordination mechanism that would bring together all stakeholders in the field of migration with the aim of formulating a consistent national migration policy, facilitating the collection and exchange of data on migration issues and helping to strengthen bilateral, regional and international cooperation in the field of migration and the exchange of relevant information.

2. Article 66: Authorized operations and bodies for the recruitment of workers for employment in another State

314. The National Employment Agency provides public employment services, welcoming job seekers, advising them and placing them in jobs.

315. In accordance with article 6 of Act No. 04-19 of 25 December 2004 concerning the placement of workers and supervision of employment, jobseekers must not be asked to make any contribution, either directly or indirectly, in exchange for placement services.

316. The National Employment Agency is mandated to seek out all available opportunities to place Algerian workers in jobs abroad, to prioritize such placements and organize activities promoting them, and to ensure that such placements are concluded in accordance with the international labour conventions and agreements that Algeria has entered into with certain countries.

317. Article 2 (2) of Executive Decree No. 07-123 of 24 April 2007, establishing the terms and conditions for granting and revoking licences for private-sector job placement agencies and guidelines for the provision of public-sector job placement services, authorizes private-sector placement agencies to engage in job search activities but does not permit them to place jobseekers in work overseas.

3. Article 67: Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration

318. Article 6 of Act No. 08-11 of 25 June 2008 states that: "Foreign nationals must leave Algeria when their visa or residence permit expires, or when the maximum period of authorized stay in the country, as permitted by law, has been reached. Foreign residents must return their residence permit to the *wilaya* where it was issued." Article 9 states that: "Non-resident foreign nationals in a regular situation in Algeria may leave the country in accordance with in-force laws and regulations."

4. Article 68: Measures aimed at the prevention and elimination of illegal or clandestine movements and employment of migrant workers in an irregular situation

319. Articles 19, 20, 28, 29, 41 and 49 of Act No. 08-11 establish financial and criminal penalties for employers and any employee of a company that use foreign labour illegally.

320. To support the prevention and elimination of illegal immigration and criminal smuggling networks, the Act provides for the following measures:

- The possibility, on the prerogative of the Minister of the Interior, of refusing a foreign national entry to the country for any reason relating to State order and security or if the fundamental, diplomatic interests of the State are at risk;

- The possibility of using biometric visas (containing fingerprints and photographs), taking foreign nationals' fingerprints and photographs at border crossing points and processing all such information electronically;
- Measures to address security needs linked to the cross-border movement of foreign nationals;
- The revocation of a foreign national's residence permit at any time, if the holder no longer meets the conditions of issuance or has been implicated in activities detrimental to public order or State interests;
- The strengthening of mechanisms for the expulsion of foreign nationals in an irregular situation in Algeria by decree of the Minister of the Interior;
- The adoption of a new measure that entails escorting foreign nationals who enter Algeria illegally back to the border by decree of the local wali;
- The possibility of establishing officially regulated holding centres to provide temporary housing for illegal immigrants until they are escorted back to the border or returned to their country of origin.

321. A harsh punitive system entailing penalties that range from 2 to 20 years' imprisonment in addition to fines is in place to combat criminal networks that smuggle and traffic migrants.

5. Article 69: Measures taken to ensure that migrant workers in an irregular situation do not persist in this condition within the territory of a State party and circumstances to take into account in case of regularization procedures

322. Social and humanitarian associations such as the Algerian Red Crescent provide support and care for migrant workers and their families who are in an irregular situation and find temporary solutions to their family situation.

6. Article 70: Measures taken to ensure that living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity

323. This article was covered in the previous paragraph.

324. Social and humanitarian organizations including the Algerian Red Crescent ensure that standards of safety and hygiene and principles of human dignity are strictly applied.

325. Periodic reports are drafted and submitted to the relevant institutions and administrative bodies on a regular basis.

7. Article 71: Repatriation of the bodies of deceased migrant workers or members of their families and compensation matters relating to the death

326. The movement of bodies is governed by Decree No. 75-152 of 15 December 1975 on hygiene standards for the burial, transportation, exhumation and reburial of bodies. The transportation to another country of the body of a foreign national who has died in Algeria is subject to prior authorization from the Ministry of the Interior and local government authorities (Decree No. 75-152, art. 3) on the basis of a complete case file.

327. Foreign workers in a regular situation enjoy the same benefits as Algerian workers under the provisions of the relevant laws on social insurance and occupational accidents and illnesses.

328. Issues linked to compensation and the repatriation of migrant workers in the event of their death are addressed in national social security legislation, which provides for support in the form of assistance for family members.

329. The Ministry for National Solidarity, the Family and the Status of Women, acting through its two agencies (the Social Development Agency and the National Microcredit Management Agency), facilitates the provision of support for migrant workers and members of their families by:

- Keeping a register of migrants and migrant families, especially those from sub-Saharan African countries and Syria;
- Monitoring their living conditions and alerting the health authorities to any suspected cases of contagious disease;
- Distributing donated clothing items (blankets and clothes) and food, in coordination with the Algerian Red Crescent;
- Keeping a register of shelters operating in areas with a high concentration of migrants;
- Taking critically ill persons, and especially children, to hospital, in coordination with civil protection authorities.

330. Lastly, the Government of Algeria has launched various development programmes designed to reduce the prevalence of the illegal emigration phenomenon known as *harraga*, including the programme to support economic recovery, the supplementary programme to support economic growth and special support programmes for the southern and high plateau regions of the country.

331. In addition, in June 2009, through the National Microcredit Management Agency, the Government launched a scheme designed to benefit individuals who have attempted to emigrate illegally. As of 30 June 2015, the National Microcredit Management Agency had awarded funding for the creation of micro-enterprises to 94 persons who had attempted to emigrate illegally.